

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re:	)	
	)	Case No. 05bk15100
OAHU SUGAR COMPANY, LLC	)	
	)	Chapter 11
Debtor.	)	
	)	Honorable Timothy A. Barnes

FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF ORDER  
AWARDING TO THOMAS PONTIKIS, SPECIAL COUNSEL FOR TRUSTEE, FOR  
ALLOWANCE AND PAYMENT OF INTERIM COMPENSATION AND  
REIMBURSEMENT OF EXPENSES

TOTAL FEES REQUESTED:	\$ 13,125.00	TOTAL COSTS REQUESTED:	\$ 63.80
TOTAL FEES REDUCED:	\$ 7,650.00	TOTAL COSTS REDUCED:	\$ 0.00
TOTAL FEES ALLOWED:	\$ 5,475.00	TOTAL COSTS ALLOWED:	\$ 63.80

**TOTAL FEES AND COSTS ALLOWED: \$ 5,538.80**

The attached time and expense entries have been underlined to reflect disallowance in whole or in part. The basis for each disallowance is reflected by numerical notations that appear on the left of each underlined entry. The numerical notations correspond to the enumerated paragraphs below.

**(1) Unauthorized Work – TOTAL of disallowed amounts \$ 5,775.00**

The Court denies the allowance of compensation for work done prior to the authorization of retention. *In re Spanjer Bros., Inc.*, 203 B.R. 85, 94 (Bankr. N.D. Ill. 1996) (Squires, J.) (“The Court will not retrospectively allow any of the time expended prior to the time of the authorized retention because to do so would be to reward any delay or tardiness in promptly seeking retention. To allow bootstrapping of objected to fees paid at the expense of unsecured creditors undermines the policy in favor of prompt application for retention by professionals who will be seeking compensation from the bankruptcy estate. *See generally* 11 U.S.C. § 327 (prerequisite to the allowance of any fees or expenses that professional be employed); *In re Peoples Sav. Corp.*, 114 B.R. 151, 154 (Bankr.N.D.Ill.1990) (“In the absence of a court order approving the Applicant’s employment, there is no statutory basis upon which the Court can make a fee award.”)).


**(2) Insufficient Description – TOTAL of disallowed amounts: \$ 450.00**

The Court denies the allowance of compensation for the indicated task(s) as the description of each task fails to identify in a reasonable manner the service rendered. *In re Pettibone*, 74 B.R. 293, 301 (Bankr. N.D. Ill. 1987) (Schmetterer, J.) (“A proper fee application must list each activity, its date, the attorney who performed the work, a description of the nature and substance of the work performed, and the time spent on the work. [Citation omitted] Records which give no explanation of the activities performed are not compensable.”); *In re Wildman*, 72 B.R. 700, 708-9 (Bankr. N.D. Ill. 1987) (Schmetterer, J.) (same).

**(3) Lumping – TOTAL of disallowed amounts (10% of affected entries): \$ 142.50**

The Court may impose a ten percent penalty on entries that appear to be “lumping.” The Court will reduce each entry marked as such per the penalty. *In re Wildman*, 72 B.R. 700, 709 (Bankr. N.D. Ill. 1987) (Schmetterer, J.) (“Applicants may not circumvent the minimum time requirement or any of the requirements of detail by “lumping” a bunch of activities into a single entry. [citation omitted]. Each type of service should be listed with the corresponding specific time allotment.”).

Dated: April 25, 2017

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Timothy A. Barnes  
United States Bankruptcy Judge

## Lipe Lyons Murphy Nahrstadt & Pontikis Ltd.

230 W. Monroe Street  
Suite 2260  
Chicago, Illinois 60606  
(312) 448-6230  
45-5211098

Moglia Advisors  
Alex Moglia  
1325 Reminton Road, Suite H  
Schaumburg, IL 60173

February 09, 2017

Invoice No.: 8488  
INTERIM

Insured:

Claimant:

Claim No.:

Date of Loss:

Our Matter #: 030728.00F700

Description of Matter: Oahu Sugar Coverage Matter

Current Billing	Previous Balance
13,188.80	0.00

Current Fees Due: \$13,125.00

Current Costs Due: \$63.80

Payments Received: \$0.00

**Total Now Due: \$13,188.80**

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Schaumburg, IL 60173

February 09, 2017

Invoice No.: 8488  
INTERIM

30728.00F700: Oahu Sugar Coverage Matter

**Professional Fees**

**Unauthorized Work**

		<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
04/12/2016 TJP	Working on new assignment re working on estate and expensses and reviewing resumes of potential mediators at ADR and Jams.	0.30	\$375.00	\$112.50
04/12/2016 TJP	Multiple calls to ADR with respect to resumes and mediators including Billik and others.	0.10	\$375.00	\$37.50
04/12/2016 TJP	Reviewing two pieces of correspondence back from ADR with respect to resumes.	0.10	\$375.00	\$37.50
04/12/2016 TJP	Telephone call to and conference with Pat Jones and telephone call to and conference with Alex Moglia.	0.30	\$375.00	\$112.50
04/12/2016 TJP	Preepare correspondence to Alex Moglia enclosing mediators resumes.	0.10	\$375.00	\$37.50
04/14/2016 TJP	Telephone call to and conference with Patrick Jones with respect to strategy on insurance coverage issues.	0.30	\$375.00	\$112.50
04/14/2016 TJP	Prepare correspondence to Alex Moglia regarding providing modified retainer letter.	0.10	\$375.00	\$37.50
04/15/2016 TJP	Preparation of two emails to Patrick Jones with respect to retainer letter and follow up reviewing information including certain insurance policy documents.	0.20	\$375.00	\$75.00
04/15/2016 TJP	Follow up regarding preparing lists of insurance documents necessary in order to adequately prepare.	0.70	\$375.00	\$262.50
04/18/2016 TJP	Review correspondence from Alex Moglia regarding additional insurance documents.	0.10	\$375.00	\$37.50
04/18/2016 TJP	Prepare correspondence to Alex Moglia regarding insurance documents.	0.10	\$375.00	\$37.50
04/19/2016 TJP	Prepare correspondence to Pat Jones with respect to retainer agreement.	0.10	\$375.00	\$37.50
04/19/2016 TJP	Attend conference call with respect to selection of potential mediator with Alex Moglia.	0.30	\$375.00	\$112.50
04/20/2016 TJP	Prepare correspondence to Pat Jones regarding documents.	0.10	\$375.00	\$37.50
04/20/2016 TJP	Telephone call to Pat Jones regarding documents.	0.20	\$375.00	\$75.00

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) Unauthorized Work

04/20/2016 TJP	Prepare correspondence to Alex Moglia regarding case status.	0.10	\$375.00	\$37.50
04/26/2016 TJP	Preparing two pieces of correspondence to Alex Moglia with respect to mediator issue.	0.10	\$375.00	\$37.50
04/26/2016 TJP	Review correspondence from Mr. Moglia with respect to same.	0.10	\$375.00	\$37.50
04/26/2016 TJP	Follow up regarding two potential mediators, reviewing credentials on line.	0.30	\$375.00	\$112.50
04/27/2016 TJP	Review correspondence from attorney, two emails with respect to mediator and potential dates.	0.10	\$375.00	\$37.50
04/27/2016 TJP	Prepare correspondence to Alex Moglia regarding same.	0.10	\$375.00	\$37.50
05/02/2016 TJP	Multiple emails from Pat Jones with respect to agreements for retention, multiple emails received from Pat regarding retention and strategy with respect to mediation.	0.30	\$375.00	\$112.50
05/02/2016 TJP	Review correspondence from Alex Moglia with respect to retention.	0.10	\$375.00	\$37.50
05/02/2016 TJP	Follow up with respect to determining records necessary with respect to analysis and mediation.	0.30	\$375.00	\$112.50
05/05/2016 TJP	Multiple emails from Pat Jones with respect to case handling.	0.20	\$375.00	\$75.00
05/05/2016 TJP	Preparation of two emails to Pat Jones regarding handling.	0.20	\$375.00	\$75.00
05/05/2016 TJP	Reviewing multiple emails regarding potential mediation date.	0.10	\$375.00	\$37.50
05/06/2016 TJP	Reviewing three emails from Alex Moglia, a trustee, with respect to mediation.	0.20	\$375.00	\$75.00
05/06/2016 TJP	Preparation of two emails to Alex Moglia regarding mediations.	0.10	\$375.00	\$37.50
05/06/2016 TJP	Preparation of two emails to Patrick Jones regarding meeting.	0.10	\$375.00	\$37.50
05/06/2016 TJP	Follow up with Pat with respect to meeting.	0.10	\$375.00	\$37.50
05/09/2016 TJP	Reviewing two pieces of correspondence from Pat Jones with respect to representation.	0.10	\$375.00	\$37.50
05/09/2016 TJP	Prepare correspondence to Pat Jones regarding representation.	0.10	\$375.00	\$37.50
05/09/2016 TJP	Follow up two emails with respect to mediation.	0.20	\$375.00	\$75.00
05/10/2016 TJP	Review correspondence from Pat Jones with respect to certain documents.	0.30	\$375.00	\$112.50
05/10/2016 TJP	Prepare correspondence to Pat Jones regarding additional documents.	0.20	\$375.00	\$75.00
05/10/2016 TJP	Review correspondence from Pat Jones regarding documents.	0.20	\$375.00	\$75.00

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1) Unauthorized Work

05/11/2016	TJP	Telephone call from Pat Jones with respect to update in case.	0.10	\$375.00	\$37.50
05/11/2016	TJP	Prepare correspondence to Pat Jones regarding update.	0.10	\$375.00	\$37.50
05/11/2016	TJP	Reviewing and revising proposed mediation agreement. [5 pages].	0.20	\$375.00	\$75.00
05/11/2016	TJP	Reviewing three pieces of correspondence regarding any changes to mediation agreement suggestions and follow up.	0.20	\$375.00	\$75.00
05/12/2016	TJP	Reviewing email from Alex Moglia regarding mediation.	0.10	\$375.00	\$37.50
05/12/2016	TJP	Prepare for and attend meeting with Patrick Jones re coverage issues.	1.00	\$375.00	\$375.00
05/12/2016	TJP	Reviewing email from DOJ attorney Patricia Hurst with respect to mediation and confidentiality.	0.10	\$375.00	\$37.50
05/12/2016	TJP	Reviewing and executing confidentiality agreement.	0.10	\$375.00	\$37.50
05/12/2016	TJP	Obtaining information and requesting additional documents.	0.90	\$375.00	\$337.50
05/12/2016	TJP	Begin review of certain documents including reservation letters.	0.90	\$375.00	\$337.50
05/13/2016	TJP	Reviewing four pieces of correspondence from Department of Justice attorney Hurst with respect to mediation and confidentiality.	0.10	\$375.00	\$37.50
05/13/2016	TJP	(Preparation of response back to her regarding same.	0.10	\$375.00	\$37.50
05/13/2016	TJP	Reviewing email with respect to CBI Environmental Study.	0.20	\$375.00	\$75.00
05/13/2016	TJP	Reviewing five emails from Alex Moglia regarding mediation.	0.20	\$375.00	\$75.00
05/13/2016	TJP	Preparation responses to two emails regarding mediation.	0.20	\$375.00	\$75.00
05/13/2016	TJP	Prepare correspondence to Alex Moglia regarding confidentiality.	0.10	\$375.00	\$37.50
05/16/2016	TJP	Prepare correspondence to Alex Moglia regarding confidential documents.	0.10	\$375.00	\$37.50
05/16/2016	TJP	Review correspondence from Expo regarding confidential documents.	0.10	\$375.00	\$37.50
05/16/2016	TJP	Reviewing five emails from Department of Justice attorney regarding site.	0.10	\$375.00	\$37.50
05/16/2016	TJP	Prepare correspondence to Alex Moglia regarding government's claim on impact of insurance coverage.	0.10	\$375.00	\$37.50
05/17/2016	TJP	Review correspondence from E. Rosenthal with respect to mediation.	0.10	\$375.00	\$37.50

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) Unauthorized Work

05/17/2016 TJP	Review correspondence from Mark Plevin regarding mediation.	0.10	\$375.00	\$37.50
05/17/2016 TJP	Multiple emails from Alex Moglia regarding mediation.	0.10	\$375.00	\$37.50
05/17/2016 TJP	Review correspondence from Al Brayton regarding mediation.	0.10	\$375.00	\$37.50
05/18/2016 TJP	Reviewing two emails from Patricia Hurst with respect to additional disclosures from EPA.	0.20	\$375.00	\$75.00
05/19/2016 TJP	Prepare correspondence to Pat Jones with respect to update, mediation issues and request for conference.	0.10	\$375.00	\$37.50
05/19/2016 TJP	Prepare correspondence to Alex regarding update of case.	0.10	\$375.00	\$37.50
05/19/2016 TJP	Review correspondence from Pat Jones regarding update.	0.10	\$375.00	\$37.50
05/23/2016 TJP	Reviewing two pieces of correspondence with Pat Jones with respect to meeting.	0.10	\$375.00	\$37.50
05/23/2016 TJP	Prepare correspondence with respect to mediation date.	0.10	\$375.00	\$37.50
05/24/2016 TJP	Prepare correspondence to Pat Jones with respect to status.	0.10	\$375.00	\$37.50
05/24/2016 TJP	Review correspondence from M. Plevin regarding mediation.	0.10	\$375.00	\$37.50
05/24/2016 TJP	Review correspondence from Al Bryant regarding mediation.	0.10	\$375.00	\$37.50
05/24/2016 TJP	Preparation of two pieces of correspondence to Alex Moglia and Pat Jones regarding meeting.	0.10	\$375.00	\$37.50
05/24/2016 TJP	Review correspondence from Alex Moglia.	0.10	\$375.00	\$37.50
06/10/2016 TJP	Prepare for and attend meeting with Alex Moglia, Pat Jones and Gary Wencel with respect to case status, strategy, outlining strategy going forward as well as issues related to evaluation of insurance coverage claims.	1.80	\$375.00	\$675.00
06/13/2016 TJP	Review correspondence from Alex Moglia regarding follow up and meeting.	0.10	\$375.00	\$37.50
06/13/2016 TJP	Review correspondence from Patrick Jones to Fireman's Fund regarding clarification of certain interest insurance policies.	0.10	\$375.00	\$37.50
06/13/2016 TJP	Prepare correspondence to Patrick Jones regarding court.	0.10	\$375.00	\$37.50
06/14/2016 TJP	Attending motion to retain Lipe Lyons to serve as insurance counsel pursuant to request regarding responding to inquiries from court.	1.20	\$375.00	\$450.00
06/16/2016 TJP	Review correspondence from Pat Jones with respect to order allowing our appearance.	0.10	\$375.00	\$37.50

Insufficient Description

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06/21/2016	TJP	Review correspondence from Pat Jones with respect to order granting his appearance.	0.10	\$375.00	\$37.50
06/21/2016	TJP	Review correspondence from Pat Jones regarding follow up with respect to mediation.	0.10	\$375.00	\$37.50
06/21/2016	TJP	Reviewing two pieces of correspondence from Alex Moglia with respect to mediation and related issues.	0.10	\$375.00	\$37.50
06/21/2016	TJP	Prepare correspondence to Alex Moglia regarding mediation.	0.10	\$375.00	\$37.50
07/07/2016	TJP	Reviewing two pieces of correspondence from Pat Jones regarding insurance strategy.	0.20	\$375.00	\$75.00
07/07/2016	TJP	Preparing two pieces of correspondence to Pat Jones regarding insurance strategy and meeting.	0.20	\$375.00	\$75.00
07/07/2016	TJP	Review correspondence from and prepare correspondence to Alex Moglia regarding status.	0.10	\$375.00	\$37.50
07/07/2016	TJP	Follow up with respect to potential mediation.	0.10	\$375.00	\$37.50
07/13/2016	TJP	Prepare correspondence to Pat Jones regarding case status regarding meeting. Review correspondence from Alex Moglia regarding status.	0.20	\$375.00	\$75.00
07/15/2016	TJP	Reviewing two piece correspondence from Alex Moglia regarding update.	0.10	\$375.00	\$37.50
07/15/2016	TJP	Preparation of correspondence to Alex Moglia regarding update.	0.10	\$375.00	\$37.50
07/15/2016	TJP	Reviewing correspondence from Pat Jones regarding case status .	0.10	\$375.00	\$37.50
07/15/2016	TJP	Preparation of correspondence to Pat Jones regarding strategy.	0.10	\$375.00	\$37.50
07/15/2016	TJP	Reviewing charge chart and 2 policies in preparation for meeting [200 pages].	1.90	\$375.00	\$712.50
07/19/2016	TJP	Review correspondence from Joe Frank with respect to meeting and documents; reviewing correspondence from Alex Moglia regarding same; prepare correspondence to Alex Moglia regarding update.	0.30	\$375.00	\$112.50
07/20/2016	TJP	Review two pieces of correspondence from Pat Jones (.20); Review two pieces of correspondence from Alex Moglia on issues related to moving the case forward re coverage issues, prepare correspondence to both regarding updates (.20).	0.40	\$375.00	\$150.00
07/21/2016	TJP	Preparation of correspondence to Joe Frank re meeting and reviewing correspondence from Alex Moglia re update.	0.20	\$375.00	\$75.00
07/26/2016	TJP	Reviewing two piece correspondence from Pat Jones with respect to meeting and update.	0.10	\$375.00	\$37.50



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) Lumping	07/26/2016 TJP	<u>Telephone conference with Pat Jones with respect to case and preparing for a meeting with Joe Frank follow up re additional documentation.</u>	0.40	\$375.00	\$150.00
	07/26/2016 TJP	Reviewing correspondence from Pat Jones re update on insurance.	0.10	\$375.00	\$37.50
	07/26/2016 TJP	Preparation of correspondence to Pat Jones re update.	0.10	\$375.00	\$37.50
) Lumping	07/26/2016 TJP	<u>Prepare for conference call with Pat Jones re preparing for comprehensive meeting with Joe Frank and putting in coverage issues and update re full coverage information so we can determine coverage in chart.</u>	0.70	\$375.00	\$262.50
	07/27/2016 TJP	Prepare for and attend meeting with Patrick Jones with respect to documents, determining strategy, moving forward with respect to potential mediation.	0.90	\$375.00	\$337.50
	07/27/2016 TJP	Attend meeting with Patrick Jones and Joe Frank and additional lawyers with respect to strategy and moving forward with respect to mediation, insurance issues, as well as completeness of file, tender issues and issues related to having full documents including any and all letters with respect to reservation of rights re insurance policies .	2.00	\$375.00	\$750.00
) Lumping	07/28/2016 TJP	Review correspondence from Pat Jones with respect to update provided to Alex Moglia re insurance.	0.10	\$375.00	\$37.50
	08/02/2016 TJP	<u>Reviewing materials including summary of coverage issues, follow up wit respect to conference with Pat Jones regarding coverage issues and attend conference call with same.</u>	0.80	\$375.00	\$300.00
	08/02/2016 TJP	Conference call with Alex Moglia with respect to case progress and action plan going forward on coverage issues.	0.40	\$375.00	\$150.00
	08/02/2016 TJP	Reviewing additional insurance records.	0.40	\$375.00	\$150.00
	08/03/2016 TJP	Reviewing three emails from Patrick Jones regarding meeting and follow up regarding insurance issues.	0.30	\$375.00	\$112.50
	08/03/2016 TJP	Reviewing two emails from Fireman's Fund's representative Mark Plevin with respect to insurance and meetings.	0.20	\$375.00	\$75.00
	08/03/2016 TJP	Prepare correspondence to both Mr. Jones and Mr. Plevin with respect to conference call.	0.10	\$375.00	\$37.50
	08/15/2016 TJP	Reviewing additional documents received in preparation for conference re corp realted to insurance.	0.30	\$375.00	\$112.50

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08/15/2016 TJP	Reviewing correspondence from Pat Jones with respect to pushing for prompt resolution re insurance claim.	0.10	\$375.00	\$37.50
08/15/2016 TJP	Prepare correspondence to Pat Jones regarding pushing for prompt resolution re insurance claim.	0.10	\$375.00	\$37.50
08/17/2016 TJP	Review correspondence from Pat Jones regarding Department of Justice claim and impact on coverage.	0.10	\$375.00	\$37.50
08/17/2016 TJP	Prepare correspondence to Pat Jones regarding Department of Justice claim and impact on coverage.	0.10	\$375.00	\$37.50
08/18/2016 TJP	Prepare for a conference with Pat Mitchell regarding prep for conference call with Fireman's Fund attorney.	0.30	\$375.00	\$112.50
08/18/2016 TJP	Attend conference call with Patrick Jones re insurance coverage.	0.40	\$375.00	\$150.00
08/19/2016 TJP	Attending conference with Mark Pelevin, attorney for Fireman's Fund with respect to discussing coverage issues, coverage status, mediation and related issues.	0.90	\$375.00	\$337.50
08/19/2016 TJP	Reviewing two pieces of correspondence from Pat Jones regarding follow up on insurance.	0.20	\$375.00	\$75.00
08/19/2016 TJP	Prepare correspondence to Pat Jones regarding follow up on documents relating to coverage.	0.10	\$375.00	\$37.50
08/22/2016 TJP	Reviewing three pieces of correspondence from Alex Moglia regarding update on insurance coverage.	0.20	\$375.00	\$75.00
08/22/2016 TJP	Reviewing three pieces of correspondence from Pat Jones regarding update on insurance.	0.20	\$375.00	\$75.00
08/22/2016 TJP	Prepare correspondence to representatives regarding update on insurance.	0.20	\$375.00	\$75.00
08/31/2016 TJP	Review correspondence from Pat Jones regarding update on insurance.	0.10	\$375.00	\$37.50
08/31/2016 TJP	Reviewing two pieces of correspondence from Alex regarding status of insurance claim.	0.10	\$375.00	\$37.50
08/31/2016 TJP	Prepare correspondence to Alex Moglia regarding status of insurance claim.	0.10	\$375.00	\$37.50
09/12/2016 TJP	Prepare correspondence to Mark Plevin with respect to insurance issues and requests for copies of policies and additional documentation.	0.20	\$375.00	\$75.00
09/27/2016 TJP	Reviewing three pieces of correspondence from Alex Moglia regarding coverage issues.	0.30	\$375.00	\$112.50
09/27/2016 TJP	Review correspondence from Pat Jones regarding coverage issues and documents.	0.20	\$375.00	\$75.00
09/27/2016 TJP	Prepare correspondence to Pat Jones re coverage issues.	0.10	\$375.00	\$37.50

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10/06/2016 TJP	Reviewing multiple emails with respect to documents and continued review of coverage documents.	0.50	\$375.00	\$187.50
10/11/2016 TJP	Attend conference call with Patrick Jones and Alex Moglia regarding coverage issues.	0.50	\$375.00	\$187.50
<u>12/16/2016 TJP</u>	<u>Reviewing materials with respect to insurance coverage, follow up with coverage partner including charts, coverage positions and help formulate opinion with respect to recovery of fees [75 pages].</u>	<u>1.90</u>	<u>\$375.00</u>	<u>\$712.50</u>
12/22/2016 TJP	Prepare correspondence to Fireman's Fund attorney regarding case status update.	0.10	\$375.00	\$37.50

Sub-total Fees: \$13,125.00

**Rate Summary**

Name	Title	Hours	Rate/Hour	Dollars
Thomas J. Pontikis	Partner	35.00 hours at \$375.00/hr		\$13,125.00
Total Fees for Professional Services:				\$13,125.00

**Expenses**

		Amount
05/31/2016	Document Reproduction - 172 copies @.10.	\$17.20
09/30/2016	Document Reproduction - 466 copies at.10.	\$46.60
Sub-total Expenses:		<u>\$63.80</u>

Total Current Billing:	<u>\$13,188.80</u>
Previous Balance Due:	\$0.00
Total Payments:	<u>\$0.00</u>
<b>Total Now Due:</b>	<b>\$13,188.80</b>

3) Lumping